

REMARKS/ARGUMENTS

Introduction

Receipt of the final Office Action mailed December 8, 2006 is acknowledged. Reconsideration of this application is requested. The claims presented for reconsideration are claims 1-4, 6-9, 11-13, and 15-19.

Claim 1 has been amended to include a comma between the alpha and beta symbols. Claims 6-7 have been amended to clarify the weight basis of the claimed percentages. Claim 10 has been canceled at the request of the Examiner due to improper dependent format. Claim 14 has been canceled in response to the restriction requirement of June 20, 2006.

Entry of the amendment and favorable reconsideration are earnestly solicited.

Election/Restrictions

Applicants reserve the right to prosecute the subject matter of claim 14 by way of a divisional application.

Claim Objections

Claim 10 was objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. As previously amended, claim 10 was identical to claim 9. In response, Applicant cancels claim 10. The objection is, therefore, rendered moot.

Claim Rejections- 35 U.S.C. § 112

Claim 12 was rejected as indefinite under 35 U.S.C. 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regarded as the invention. It was considered that the

language of claim 12 was vague and indefinite because it was unclear whether addition of as low as 0.1% would inhibit or suppress mold growth or some other value.

Applicant respectfully submits that the amendments made prior to final rejection obviated such a rejection because the claim reasonably apprises those skilled in the art of the scope of the invention. Applicant notes that the Federal Circuit has held that the definiteness inquiry focuses on whether those skilled in the art would understand the scope of the claim. *Union Pacific Resources Co. v. Chesapeake Energy Corp.*, 236 F.3d 684, 57 USPQ2d 1293 (Fed. Cir. 2001). The previously amended claim meets this requirement because it sets out and circumscribes, through the use of the words “inhibit or suppress,” a reasonable degree of precision and particularity regarding the amount of copolymer required. As such, those skilled in the art would understand that the amount of copolymer is that which may cause inhibition or suppression of mold growth and, thus, need not be stated in mathematical terms in the claim.

Claim Rejections - 35 U.S.C § 102b

Applicant acknowledges that the 102(b) rejections of claims 1-7, 10-12 and 19 as being anticipated by Hammer et al. have been withdrawn due to Applicant's amendments filed on November 6, 2006. The Examiner, however, maintains the rejection of claims 8-9, 15 and 17-18 under 35 U.S.C. 102(b) as allegedly being anticipated by Hammer et al. for the same reasons of record in the Office Action mailed August 4, 2006. The Examiner also newly rejects claims 1-4, 6-7, 10-12 and 19 under 102(b) as being anticipated by Hammer et al.

These rejections are respectfully traversed.

In regards to claims 1-4, 6-12, and 17, Applicant again respectfully notes that Hammer discloses a cellulose based tubular food casing containing polyvinylpyrrolidone,

polyvinylpyridone, poly(N-vinyl-caprolactam) or a copolymer containing units of vinylpyrrolidone, polyvinylpyridone, N-vinyl-caprolactam and additionally units of the formula II and III as showing in columns 3 and 4 of the reference. The units according to formula II and III contain amino- or ammonium groups, respectively. They are thus patentably distinct from the (co)monomers recited in claim 1.

Furthermore, according to column 5, I. 51-55 of Hammer, the monomer "B" is preferably an unsaturated carboxylic acid of formula IV. Part of formula IV is R6 which is a monounsaturated alkyl radical. R7 in formula IV is a trialkyl-substituted ammonium radical of formula V or an alkyl-substituted amine radical of formula VI. R7 cannot represent a hydrogen atom as submitted by the Examiner in paragraphs 13 and 14 of the Office Action. As such, Hammer does not teach any copolymers containing units of α,β -ethylenically unsaturated carboxylic acid. As a result, Hammer cannot anticipate a cellulose-based food casing comprising any of the copolymers recited in previously amended claim 1.

In regards to claims 18-19, Hammer describes a casing with improved permeation and absorption capacity (column 7, II. 15-54). Hammer fails to describe the preservation of water vapor permeability in conjunction with a lower permeation as recited in claim 18. Furthermore, Hammer fails to describe a food casing capable of reducing susceptibility to cellulose with increase resistance to mold or a casing with a greater affinity to sausage-meat emulsion. Therefore, Hammer does not anticipate independent claim 18 and, in turn, does not anticipate dependent claim 19.

Claim Rejections - 35 U.S.C § 103(a)

The Examiner repeats the 35 U.S.C § 103(a) rejection of claim 13 as being obvious over Hammer et al. in view of Crevasse. Further, the Examiner rejects claim 16 under 35 U.S.C § 103(a) as being unpatentable over Hammer et al. in view of Crevasse.

The Examiner contends that it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify Hammer's casing with encased sausage as taught by Crevasse in order to provide encased sausage having a long shelf life.

This rejection is respectfully traversed.

Claim 16 is not obvious under § 103(a) because neither Hammer or Crevasse, alone or in combination, describe a tubular food casing as recited in claim 1. Hammer does not contemplate any of the specific copolymers set forth in the previously amended claim 1. Crevasse does describe a tubular food casing based on cellulose that can be employed to produce dry sausages (column 4, I, 64). However, like Hammer, Crevasse is completely silent as to any of the copolymers taught in claim 1 and does not cure the deficiencies of Hammer. Therefore, the combination of the teachings of Hammer and Crevasse does not render claim 16 obvious.

Claim 13 is not obvious over Hammer et al. in view of Crevasse because not only does Hammer fail to describe a tubular food casing as recited in claim 1 but Crevasse fails to set forth a food casing having a length from 5 to 100 meters. Instead Crevasse describes a food casing of 20-25 meters that may be shirred into a compacted strand with the strands being used to make a large number of sausages (See col. 3, II. 54-59). Therefore, critical features of the tubular food casing such as the physical composition and length are not present in either of the references being relied upon by the Examiner.

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Amdt. dated March 8, 2007
Reply to Office action of December 8, 2006

CONCLUSION


It is also respectfully requested that the Examiner expeditiously notify Applicant's undersigned attorney as to the disposition of the remarks presented herein in accordance with M.P.E.P. § 714.13.

Any comments or questions concerning the application can be directed to the undersigned at the telephone number given below.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 09-0528 (Docket #: P179 1130.1).

Respectfully submitted,

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